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Human rights situations that require the Council's attention

Written statement* submitted by the International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 August 2018]

* Issued as received, in the language(s) of submission only.

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The continuing crisis of the Hmong people in the Lao People's Democratic Republic**

International Educational Development, Inc. and the Association of Humanitarian Lawyers continue to be deeply concerned about the dire situation of the Hmong people in the Lao People's Democratic Republic (hereinafter Laos). We have submitted a number of written statements and urgent action appeals, including to the Special Advisor to the Secretary-General on the Prevention of Genocide and Mass Atrocities and have maintained that the situation invokes the "Responsibility to Protect (R2P) principles as the Hmong people are at risk of extermination. Given both the history of the Hmong people and their more than 40-year-long grave situation, we urge that they have the right to self-determination as the only way to realize their basic human rights.

At the 37th session of the Council, we again spoke of the intention of the Laotian authorities to eliminate the Hmong people before the Council can take measures. As the session was ending, the Laotian Army attacked and killed a group of Hmong who they claimed were trying to communicate with the Hmong people in the jungle. The authorities apparently stated that this was a warning to all traitors of Miao behavior (note that the term Miao" is disrespectful) and that they shall be killed to terminate them from this land. The Lao Army continues to carry out actions against the Hmong peoples to meet what they refer to as the deadline of 2020 to rid Laos of all Hmong in the traditional territories, and before there is any action by the Council or the international community as a whole. At present their numbers in Laos are catastrophically reduced with hundreds of thousands living in exile.

In exercising the right of reply following our statements at earlier sessions of the Council, the Laotian representative asserted to the Council that under Laotian law, all groups enjoy the same basic rights, and all live in harmony. While that may be true for other ethnic groups in the country, it is definitely not true for the Hmong people as we have shown in our submissions -- they have been subjected to genocidal conditions since the end of the Vietnam War. At the Council's 38th session, the government again exercised the right of reply to one of our statements, claiming that we should be embarrassed by our assertions. Rather than our being embarrassed, we assert that the Lao authorities should be embarrassed by their assertions regarding the Hmong and note that the authorities have denied requests by international actors to investigate properly what is occurring. For example, in July 2018 a member of the United States House of Representatives from Virginia introduced a resolution regarding the Hmong situation, and noted the refusal of the Laotian authorities to grant requests of States and non-governmental organizations to investigate.

The situation in Laos has been further worsened by the catastrophic collapse of the dam in Xe-Pian Xe-Namnoy area in July 2018 that caused widespread flooding and the deaths or displacement of thousands. It is assumed that the waters displaced land mines and other unexploded ordnance from the Vietnam War. While the impact of this on the Hmong community is unclear, Laotian authorities have banned international organization such as the Red Cross and Save the Children from reporting on casualties or the overall situation, again illustrating how Laos operates in attempted secrecy bordering on paranoia. The full toll of this catastrophe will likely never be known. Meanwhile Laos plans to construct another 150 dams in its territory, making Laos into what they refer to as the "battery of Asia" – selling electric power to Thailand and other countries. This will cause widespread displacement of thousands of Laotians and will definitely affect the Hmong people. There seems to be no plan by the authorities to evaluate properly the construction failures of the July dam failure and we fear what may occur with the other dams.

We have proposed, as an interim measure before the Hmong people are granted their right to self-determination, that the international community establish a special protected area guarded by international actors in the Hmong traditional area. This type of "safe haven" would allow the surviving Hmong people to congregate, to receive humanitarian aid and to communicate with the outside world unfettered by the Laotian authorities. The safe haven should be located near an international border to facilitate entrance and egress of interested parties such as humanitarian aid workers, the media and, of course, relatives. Failure to establish such an area is likely to encourage the Laotian authorities to continue their hostile actions against the surviving Hmong.

Conclusions and recommendations

It is patently clear that the Laotian authorities have no intention adequately to address the situation of the Hmong people. It is also clear that action by United Nations bodies to date continues to be grossly inadequate to address their genocidal situation. Laos continues to refuse on-site investigations. While the treaty bodies have addressed the situation, they can only issue early warnings and urgent actions and we hope that the Council, the General Assembly or the Security Council take affirmative action, which to date has not occurred. The UPR process served to illustrate or identify violations, even serious ones, but it alone is not an action procedure. The International Committee of the Red Cross can undertake relief efforts, but in this case are restrained from doing so by the relevant authorities.

As a result of the urgency of this situation, we again recommend that the following actions be undertaken:

1. The High Commissioner should undertake to establish a safe haven for the Hmong people as soon as possible. Alternatively, the High Commissioner could request the Secretary-General to act in this regard. The Council should support such action.
2. The international community should invoke the Responsibility to Protect (R2P) mechanisms as soon as possible due to the genocidal situation and should recognize the right to self-determination of the Hmong people.
3. The Secretary-General should consider other action on this situation such as encouraging or instigating independent investigation, including the issue of unexploded ordnance in the Hmong areas.
4. The relevant mandate holders of the Council, including those addressing summary execution, disappearances, torture, internally displaced persons, health, food, water and sanitation, arbitrary detention, human rights defenders, truth, and minority issues should insist on site visits to the Hmong areas in Laos, either alone or in concert.
5. Given that nearly all special procedures are highly relevant to the situation in the Hmong areas of Laos, the Council should consider requesting the High Commissioner to undertake action such as establishing a commission of inquiry as has been established in other situations. In the alternative, the Council should establish its own commission of inquiry or appoint a special rapporteur or independent expert.

**The Association of Humanitarian Lawyers, Inc., an NGOs without consultative status, also shares the views expressed in this statement.